

COMMITTEE ON LEGISLATIVE RESEARCH
OVERSIGHT DIVISION

FISCAL NOTE

L.R. No.: 265-15
Bill No.: Truly Agreed to and Finally Passed CCS#2 for SCS for HCS for HB 302 and 38
Subject: Alcohol, Crimes and Punishment, Revenue Department
Type: Original
Date: May 29, 2001

FISCAL SUMMARY

ESTIMATED NET EFFECT ON STATE FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
General Revenue	(\$528,856)	(\$1,163,527)	(\$1,315,724)
Spinal Cord Injury Fund	\$0 to \$375,000	\$0 to \$450,000	\$0 to \$450,000
Highway Funds	(\$6,582)	\$55,025	\$58,442
Total Estimated Net Effect on <u>All</u> State Funds	(\$535,438 to \$160,438)	(\$1,108,502 to \$658,502)	(\$1,275,282 to \$807,282)

ESTIMATED NET EFFECT ON FEDERAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Total Estimated Net Effect on <u>All</u> Federal Funds	\$0	\$0	\$0

Numbers within parentheses: () indicate costs or losses.
This fiscal note contains 12 pages.

ESTIMATED NET EFFECT ON LOCAL FUNDS			
FUND AFFECTED	FY 2002	FY 2003	FY 2004
Cities	\$13,973	\$27,371	\$28,465
Counties	\$9,315	\$18,248	\$18,976
All	(\$0 to Unknown)	(\$0 to Unknown)	(\$0 to Unknown)
Local Government	\$23,288 to (Unknown)	\$45,619 to (Unknown)	\$47,441 to (Unknown)

Numbers within parentheses: () indicate costs or losses.

FISCAL ANALYSIS

ASSUMPTIONS

Officials from the **Department of Mental Health**, and **Office of the State Treasurer** assume no impact to their agencies.

Officials from the **University of Missouri** (UM) assume UM would incur no additional cost as a result of this proposal.

Officials from the **Missouri Highway Patrol**, in response to a prior version of this proposal, assume no impact to their agency.

Officials from the **Department of Higher Education** (CBHE), in response to a prior version of this proposal, assume this proposal would not have a direct fiscal impact on the CBHE as it is funded and administered by the UM Board of Curators.

Officials from the **Department of Health, Office of Administration, Division of Budget and Planning, Office of Prosecution Services**, and the **Office of the Attorney General**, in response to similar proposals, assume no impact to their agencies.

Officials from the **Department of Transportation** assume:

This legislation will lower Missouri's current blood alcohol content level as required for conviction of the crime of driving with an excessive blood alcohol content from .10 to .08. The bill also increases the prison or community service penalties for repeat drunk drivers.

ASSUMPTIONS (continued)

The bill complies with the federal requirements in TEA 21. Therefore, MoDOT will be eligible to participate in the TEA 21 incentive grant program, which allows states to share in \$90 million in incentive grant funds. Based on the latest estimates from Department of Public Safety, the amount of money Missouri would be eligible for would be approximately \$3 million, as long as no other states become eligible this fiscal year. The incentive money is available for FY02 and FY03.

There would also be future savings because beginning in FY04, the federal government will penalize states that do not enforce a .08 BAC standard. The penalty to Missouri would start at \$8.1 million and increase by \$8.1 million for the next three years. By enacting a .08 BAC standard, MoDOT will not have federal construction funds withheld.

The bill would not fully comply with the repeat offender requirement, therefore MoDOT will be forced to transfer \$5.2 million in federal construction money from construction to highway safety programs like drunk driving enforcement and hazard elimination programs.

The total fiscal impact of this legislation is as follows: FY02 (\$2.2 million); FY03 (\$7.4 million) and FY04 (\$10.4 million).

Oversight assumes these penalties are prospective and dependent on future events, and has excluded these costs from the estimate of fiscal impact.

Officials from the **Office of State Courts Administrator** assume the proposed legislation would create programs related to persons with more than .15 BAC; tighten the standard for presumed driving while intoxicated by changing the blood alcohol standard from 0.1 to .08 and increase the penalty for a first offense; change the ignition interlock law; restrict eligibility for a hardship license; restrict probation and parole for some DWIs; expand the circumstances under which a chemical test may be administered; and increase the minimum time served before probation or parole is granted. There are also provisions for traffic court judges' proceedings.

Depending on the degree of enforcement, there may be an increase in the number of cases filed. However, we have no way of quantifying that increase at this time. Because of the increased penalties, some cases may become protracted. There will be an impact on Corrections.

The proposed legislation would also establish a spinal cord injury fund to be administered by the Board of Curators of the University of Missouri funded by a \$25.00 surcharge on DWI related offenses.

ASSUMPTIONS (continued)

In FY 99, there were almost 18,000 intoxication-related guilty pleas that could be assessed the \$25.00 fee. However, we assume that some of these surcharges will never be collected, so there is no way to accurately estimate the potential income to the fund. If enacted, we would include the surcharge requirement in the statewide court automation software and, as courts come upon that system, we would have the ability to track, collect and disburse the fee.

Oversight assumes the revenue to each fund would be based on a additional fee of \$25.00 multiplied by the number of offenses and has ranged the additional revenue from \$0 to \$375,000 for the first year and from \$0 to \$450,000 in subsequent years.

Officials from the **Department of Corrections**, in response to a prior version of this proposal, assume this proposal would increase the number of prison admissions for persons convicted of alcohol-related traffic offenses by 11%. The cost of this increase was estimated at \$528,856 for FY2002, \$1,163,527 for FY2003, and \$1,315,724 for FY 2004.

Oversight assumes there would also be additional unknown incarceration costs to local governments as a result of these provisions.

Officials of the **State Public Defender (SPD)**, in response to a prior version of this proposal, assume that existing staff could provide representation for those 50 - 75 cases arising where indigent persons were charged with "driving while intoxicated at .08%." However, passage of more than one similar bill would require the State Public Defender System to request increased appropriations to cover the cumulative cost of representing the indigent accused.

Officials from the **Department of Revenue (DOR)** assume:

.08% DWI Provisions

This proposal lowers the blood alcohol content threshold for driving while intoxicated, driving with excessive blood alcohol content, and administrative alcohol actions to .08%. Lowering the minimum excessive alcohol threshold will result in additional arrests for driving while intoxicated and subsequently will result in additional license suspension documentation to be sent to the Driver and Vehicle Services Bureau (formerly known as the Drivers License Bureau).

While the long term implications may result in fewer arrests, it is assumed that until social behaviors are modified to account for the lower alcohol threshold, in the short term (3 to 5 years) arrests will increase.

ASSUMPTIONS (continued)

Traffic Commissioners

A provision in this bill will change the manner in which trial administrative alcohol denovo and commercial driver license refusal to submit to a chemical test cases are assigned to traffic commissioners in the Circuit Court of St. Louis County. On January 1, 2002, the cases will be assigned to traffic commissioners through procedures established by local court rule. At this time, the Department of Revenue cannot determine the impact that this rule will have on cases under sections 302.535 and 302.750.

Administrative Impact - Driver and Vehicle Services Bureau

.08% Requirements

The Driver and Vehicle Services Bureau assumes that in the short term (3 to 5 years), this legislation will increase the number of administrative alcohol arrests pursuant to section 302.500 RSMo, by 16.7%. The Driver and Vehicle Services Bureau also assumes the same increase (16.7%) on alcohol related convictions.

These increases will result in the following increased workloads in the Driver and Vehicle Services Bureau:

Administrative Alcohol Arrest Documentation = 3,826
Alcohol Related Convictions = 2,406
Notices of Suspension/Revocation = 6,232
Reinstatement Notices = 4,241
Correspondence Inquiries = 1,122

Total Increased Documentation for Processing: 17,827

In order to process this increased documentation the Driver and Vehicle Services Bureau will require one additional Clerk Typist II. The requested Clerk Typist II position will be responsible for responding to correspondence inquiries, entering arrest and conviction data, reinstatement fees, proof of insurance (required for reinstatement), and alcohol education completion certificates into automated computer systems. **Oversight** assumes the additional clerk typist duties could be absorbed with existing resources.

ASSUMPTIONS (continued)

General Counsel's Office

The General Counsel's Office assumes the same impact as the Driver and Vehicle Services Bureau (16.7% increase in arrests). The General Counsel's Office expects an increase in the number of hearings requested as a result in the lower blood alcohol threshold. The immediate impact is expected to be more significant as more individuals will challenge the legitimacy of lower alcohol threshold and whether or not an individual is impaired at the lower limit. This will require three additional Legal Counsels and one additional Clerk Typist III in order to process the additional administrative hearings that are associated with the increased number of arrests.

This FTE request is based on current administrative hearing volumes statewide. Nearly half of all hearings are held in the metropolitan areas of Kansas City and St. Louis. One additional Legal Counsel will be needed in each of these areas to absorb the additional hearings that will be requested. The remaining Legal counsel will be used out of the Jefferson City office and will be required to travel to many regions of the state to absorb additional hearing volumes statewide.

The requested Clerk Typist III will be responsible for docketing hearings, scheduling hearings, and preparing hearing documentation.

Oversight assumes that one General Counsel and one Clerk Typist II could handle the additional workload, consistent with DOR's response to a similar proposal in the prior session. The costs to DOR have been adjusted accordingly.

Postage

The Driver and Vehicle Services Bureau will require additional postage funding as a result of an estimated 11,595 documents required to be mailed. This documentation includes notices of suspension/revocation, notices of reinstatement, and responses to correspondence inquiries.

Additional postage funding will also be required in order to facilitate the reprinting of Alcohol Influence Reports (form DOR-2389) and the Notice of Suspension/Revocation (form DOR-2385) which is given to the offender at the time of arrest.

The Driver and Vehicle Services Bureau will distribute 100,000 of each of these forms to law enforcement agencies throughout the state. Postage for this distribution of forms is estimated to be \$3,100. **Oversight** assumes DOR could absorb the cost of postage for the flyers, and has excluded such costs from the fiscal impact.

ASSUMPTIONS - (continued)

Forms

The Driver and Vehicle Services Bureau will be required to modify two forms in order to identify the appropriate reduction in the blood alcohol content threshold and the increased penalties for driving while intoxicated. This will require reprinting of Alcohol Influence Reports (form DOR-2389) and the Notice of Suspension/Revocation (form DOR-2385) which is given to the offender at the time of arrest.

The Driver and Vehicle Services Bureau will distribute 100,000 of each of these forms to law enforcement agencies throughout the state. Costs for reprinting these forms are estimated to be \$6,000. **Oversight** assumes DOR could absorb the cost of production of the forms, and has excluded such costs from the fiscal impact.

State Data Center Costs

The State Data Center will have additional costs of \$2,000 for fiscal year 2002. **Oversight** assumes DOR could absorb the State Data Center cost, and has excluded such costs from the fiscal impact.

Revenue Increase

Additional suspension and revocation actions will be imposed as a result of lower blood alcohol content threshold.

The Driver and Vehicle Services Bureau estimates 4,241 additional reinstatements annually. This estimate is based on statistics obtained from the Missouri Drivers License (MODL) System.

Fiscal Year 2002 estimates are based on only six months calculations for administrative alcohol and point accumulation suspensions. This is due to the requirement of a one month notice prior to enforcement of the suspension, a one month suspension period, and a two month period of restricted driving prior to reinstatement. In addition, the effective date of this legislation is assumed to be August 28, 2001 which reduces the total months in the fiscal year to ten months.

Administrative alcohol license revocations and point accumulation revocations are also not calculated in fiscal year 2001 as these actions are one year sanctions. The first revocations for these actions will not be eligible for reinstatement until August 28, 2002 under this assumption (FY 2003). Therefore, these reinstatements are calculated for ten months of FY 2003 and all of FY 2004.

ASSUMPTIONS - (continued)

FY 02

2,094	Administrative Alcohol Suspensions
<u>1,171</u>	Point Accumulation Suspensions
3,265	Total Suspension Reinstatements
3,265	Total Suspension Reinstatements
<u>/ 12</u>	Months per Year
272	Suspension Reinstatements per Month
<u>x 6</u>	Months of Eligible Reinstatement for Suspensions
1,632	Total Suspension Reinstatements for FY02
<u>+ 438</u>	Point Accumulation Revocations Reinstatements
2,070	Additional Reinstatements for FY02
<u>x \$45</u>	Reinstatement Fee
\$93,150	Total Increased Reinstatement Fee Collection FY02

FY 03

514	Administrative Alcohol Revocation Reinstatements
<u>+ 438</u>	Point Revocation Reinstatements
952	Total Revocation Reinstatements
<u>/ 12</u>	Months per year
79	Revocations per month
<u>x 10</u>	Months of Eligible Revocation reinstatements
790	Total Revocation Reinstatements for FY03
3,265	Total Suspension Reinstatements
<u>+ 790</u>	Total Revocation Reinstatements
4,055	Total Reinstatements for FY03
<u>x \$45</u>	Reinstatement Fee
\$182,475	Total Increased Reinstatement Fee Collection for FY03

FY 04

514	Total Administrative Alcohol Revocations Reinstatements Annually
3,265	Total Suspension Reinstatements
<u>+ 438</u>	Total Point Revocation Reinstatements
4,217	Total Reinstatements for FY04
<u>x \$45</u>	Reinstatement Fee
\$189,765	Total Increased Reinstatement Fee Collection for FY04

ASSUMPTION (continued)

Fee Distribution

FY 02

\$69,863	Highway Fund
\$13,973	Cities
\$9,315	Counties

FY 03

\$136,856	Highway Fund
\$27,371	Cities
\$18,248	Counties

FY 04

\$142,324	Highway Fund
\$28,465	Cities
\$18,976	Counties

Traffic Commissioner Provisions:

Office of General Counsel

This provision allows the petitioner to opt to have the case heard before a traffic commissioner. The new language requires the judge to hear the case, “except that, at the option of the petitioner, traffic judges may hear in the first instance such petitions for review.”

The Department of Revenue’s General Counsel’s Office will have significant impact in sustaining appropriate attorney staff levels that will be required to cover a much broader docket schedule in St. Louis County. The Department of Revenue previously reported an UNKNOWN fiscal impact as a result of a similar proposal under Senate Bill 360. However, in the time since this bill was considered the department has completed research that has determined that an additional 2 staff attorney’s would be required to handle the St. Louis County docket as this amendment will require cases to be spread out over a much larger docket.

Oversight assumes the effect of this provision would be to continue the practice of allowing traffic commissioners to hear appeals of administrative decisions and has excluded the additional staff attorneys from the estimated fiscal impact.

<u>FISCAL IMPACT - State Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
HIGHWAY FUNDS			
<u>Income - Department of Revenue</u>			
Reinstatement fees	\$69,863	\$136,856	\$142,324
<u>Cost - Department of Revenue</u>			
Personal Service	(\$49,250)	(\$60,578)	(\$62,092)
Fringe Benefits	(\$16,415)	(\$20,190)	(\$20,695)
Expense and Equipment	<u>(\$10,780)</u>	<u>(\$1,063)</u>	<u>(\$1,095)</u>
Total cost	<u>(\$76,445)</u>	<u>(\$81,831)</u>	<u>(\$83,882)</u>
ESTIMATED NET EFFECT ON HIGHWAY FUNDS	<u>(\$6,582)</u>	<u>\$55,025</u>	<u>\$58,442</u>
GENERAL REVENUE FUND			
Cost - Department of Corrections	(\$528,856)	(\$1,163,527)	(\$1,315,724)
ESTIMATED NET EFFECT ON GENERAL REVENUE FUND	<u>(\$528,856)</u>	<u>(\$1,163,527)</u>	<u>(\$1,315,724)</u>
SPINAL CORD INJURY FUND			
Income - Fees	\$0 to \$375,000	\$0 to \$450,000	\$0 to \$450,000
ESTIMATED NET EFFECT ON SPINAL CORD INJURY FUND	<u>\$0 to \$375,000</u>	<u>\$0 to \$450,000</u>	<u>\$0 to \$450,000</u>

<u>FISCAL IMPACT - Local Government</u>	FY 2002 (10 Mo.)	FY 2003	FY 2004
Cities			
<u>Revenue</u> - Reinstatement fees	\$13,973	\$27,371	\$28,465
Counties			
<u>Revenue</u> - Reinstatement fees	\$9,315	\$18,248	\$18,976
<u>Cost</u> - Increased jail population	(0 to unknown)	(0 to unknown)	(0 to unknown)
ESTIMATED NET EFFECT ON LOCAL GOVERNMENT	<u>\$23,288 to</u> <u>(UNKNOWN)</u>	<u>\$45,619 to</u> <u>(UNKNOWN)</u>	<u>\$47,441 to</u> <u>(UNKNOWN)</u>

FISCAL IMPACT - Small Business

No direct fiscal impact to small businesses would be expected as a result of this proposal.

DESCRIPTION

This proposal would:

Lower the blood alcohol content threshold for driving while intoxicated, driving with excessive blood alcohol content, and administrative alcohol actions to .08%.

Allow a person whose license was suspended for an alcohol-related offense to complete a treatment program determined to be comparable to SATOP by DOR prior to license reinstatement.

Allow courts to modify or waive treatment assignments except for repeat or persistent offenders or persons found to have operated a motor vehicle with more than .15 BAC.

Allow courts, after January 1, 2002, to assign administrative trial de novo cases by local court rule, to traffic judges, circuit judges, or associate circuit judges.

Allow the Department of Mental Health to create a demonstration project within existing appropriations, for serious or repeat offenders.

Create a new fund in the state treasury for the benefit of the University of Missouri, supported by additional fees on speed limit offenses.

Allow any certified law enforcement officer to administer chemical tests to drivers suspected of operating a vehicle while intoxicated.

DESCRIPTION - continued

Increase the penalty for a DWI first offense, require minimum penalties for persistent offenders, restrict eligibility for a hardship license, increase the minimum time served before probation or parole is granted, and restrict probation and parole for some DWI offenses.

Change the ignition interlock law to require an interlock device on any vehicle owned or operated by an offender.

This legislation is federally mandated, but would not duplicate any other program and would not require additional capital improvements or rental space.

SOURCES OF INFORMATION

Department of Mental Health
Office of State Courts Administrator
University of Missouri
Department of Revenue
Department of Transportation
Office of the State Treasurer

A handwritten signature in black ink, appearing to read "Jeanne Jarrett".

Jeanne Jarrett, CPA
Director
May 29, 2001